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10 UNITED STATES DISTRICT COURT

11 NORTHERN DISTRICT OF CALIFORNIA

12 In re Application of:) Case No. 10-MC-80225 CRB (EMC)
13)
14 THE REPUBLIC OF ECUADOR,)
15)
16 Applicant,)
17)
18 For the Issuance of a Subpoena for the)
19 Taking of a Deposition and the)
20 Production of Documents in a Foreign)
21 Proceeding Under 28 U.S.C. § 1782.)
22)

23) Case No. 10-MC-80324 CRB (EMC)
24 In re Application of:) (Related case)
25)
26 Daniel Carlos Lusitand Yaiguaje, et al.,)
27)
28 Applicants,)
29)
30 For the Issuance of a Subpoena for the)
31 Taking of Depositions and the)
32 Production of Documents in a Foreign)
33 Proceeding Under 28 U.S.C. § 1782.)
34)

35 **PROTECTIVE ORDER**

1 For good cause appearing, under Federal Rule of Civil Procedure 26(c)(1), **IT IS**
2 **HEREBY ORDERED** that:

- 3 (1) All documents, materials, information, privilege logs, and deposition testimony
4 (“Protected Materials”) disclosed by Diego Borja and his counsel pursuant to this Court’s
5 order of December 1, 2010 shall be used by the Republic of Ecuador, the Procuraduría
6 General del Estado, their agents, their counsel, and their counsel’s agents (collectively,
7 “Applicants”) solely for the purposes of preparing for and conducting the Bilateral
8 Investment Treaty arbitration entitled *Chevron Corporation and Texaco Petroleum*
9 *Corporation v. The Republic of Ecuador*, PCA Case No. 2009-23, any appeals from
10 judgments or awards in those proceedings, any actions under 28 U.S.C. § 1782 seeking
11 discovery for use in those proceedings, and any other related civil actions in which
12 Applicants are a party, have appeared, or have an interest (collectively, “BIT
13 Litigation”).
- 14 (2) Applicants shall disclose Protected Materials only to those persons or entities responsible
15 for preparing for and conducting the BIT Litigation on behalf of Applicants, or to
16 witnesses (and their counsel) who provide deposition or in-court testimony in the BIT
17 Litigation. Furthermore, except as provided in Paragraph (3), Applicants shall not
18 disclose any Protected Materials to the Fiscalía General del Estado or his agents
19 (collectively, “FGE”).
- 20 (3) Notwithstanding Paragraph (2), the provisions of this Order shall not be construed as
21 preventing the disclosure of any Protected Materials to any court, tribunal, arbitrator or
22 any agent of the foregoing for the purposes of conducting the BIT Litigation.
23 Furthermore, this Order shall not be construed as preventing Applicants from disclosing
24 Protected Materials if lawfully compelled to do so by a subpoena, court order, or
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1 compulsory legal process. If Applicants are lawfully compelled to disclose any Protected
2 Materials, then they shall provide Borja and his counsel with reasonably advance notice
3 of the Protected Materials to be disclosed, the name(s) of the person(s) or entities to
4 whom they will be disclosed, and a copy of the subpoena, court order, or legal process
5 document compelling the disclosure.
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7 (4) Applicants shall not solicit the FGE to issue a subpoena or seek a court order, or
8 otherwise invoke compulsory legal process, to obtain Protected Materials from
9 Applicants.

10 (5) Within ninety days of the conclusion of the BIT Litigation, Applicants shall return all
11 Protected Materials to counsel for Borja, or otherwise destroy them.
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13 (6) Nothing in this Order shall restrict the use of documents or information obtained by a
14 party from a source other than Diego Borja, his counsel or his counsel's agents. To the
15 extent the Protected Materials contain documents or information that are also publicly
16 available, nothing in this Order shall restrict the use of such documents or information.
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18 (7) Disclosure of Protected Materials to any person or entity shall be accompanied by notice
19 of this Order.

20 (8) Any breach or violation of this Order may be punishable as contempt. Furthermore, in
21 the event the Court finds that Applicants have breached or violated this Order, Applicants
22 shall immediately return to counsel for Borja all Protected Materials or otherwise destroy
23 them.
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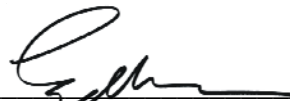
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1 (9) This Order shall remain in effect until all Protected Materials in the possession, custody,
2 or control of the Applicants are returned or destroyed. This Court retains exclusive
3 jurisdiction to enforce this Order.
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6 IT IS SO ORDERED.
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8 Dated: February 25, 2011
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11 EDWARD M. CHEN
12 United States Magistrate Judge
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